

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF NEW YORK

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4 JOHN GORMAN,

5 Plaintiff,

6 -vs- Civil Case No 1:14-cv-434

7 RENNSELAER COUNTY, SHERIFF JACK MAHAR,
8 ANTHONY PATRICELLI, UNDERSHERIFF PATRICK
9 RUSSO, COUNTY HUMAN RESOURCES MANAGER
10 TOM HENDRY, COUNTY EXECUTIVE KATHLEEN JIMINO,

11 Defendants.

12 * * * * *

13 EXAMINATION BEFORE TRIAL of

14 INVESTIGATOR ERIKA L. HOCK, held at Law Office of
15 Patrick Sorsby, PLLC, 1568 Central Avenue, Albany,
16 New York on October 28, 2015, commencing at
17 9:09 a.m., before NORA B. LAMICA, Court Reporter
18 and Notary Public in and for the State of New York
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Also Present:

John Gorman

Undersheriff Patrick Russo

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that filing, sealing and certifications are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within Deposition may be signed before any Notary Public with the same force and effect as though subscribed and sworn to before this Court.

1 I N V E S T I G A T O R E R I K A H O C K, having
2 been called as a witness, being duly sworn,
3 testified as follows:

4 EXAMINATION

5 BY MR. SORSBY:

6 Q. Good morning.

7 A. Good morning.

8 Q. Can you please state your name for the record?

9 A. Yes. My name is Erika Hock.

10 Q. And Ms. Hock, did your office receive a subpoena
11 in this matter?

12 A. Yes, we did.

13 Q. And it was a subpoena to appear?

14 A. Yes.

15 Q. And it was a subpoena to produce documents, as
16 well?

17 A. Correct.

18 Q. And do you have a copy of the subpoena with you
19 today?

20 A. Yes, I do.

21 Q. Before we proceed, just let me give you a few
22 instructions, rules for the road. Have you been
23 to a deposition before?

24 A. Not in this format, no.

1 Q. I'm going to ask you a series of questions. If
2 the questions aren't clear, ask me to clarify the
3 question before you answer so that we're clear
4 and that you're answering the question that I'm
5 posing to you. The stenographer cannot record
6 the nodding of your head, so you'll have to
7 verbalize your answers.

8 A. Okay.

9 Q. If at any time you need a break, let me know. I
10 don't think that's going to be an issue. This
11 should be relatively short.

12 A. Okay.

13 Q. So we were just discussing your receipt of a
14 subpoena to produce documents, and you indicated
15 you have that with you today?

16 A. The subpoena?

17 Q. Correct.

18 A. Yes, I do.

19 Q. All right. And we'll talk about that in a little
20 bit, about the documents that were produced in a
21 little bit, but just give us quick -- real
22 briefly -- you're currently employed with who?
23 Can you tell us who?

24 A. I'm employed by the New York State Police.

1 Q. And in what capacity?

2 A. I'm currently an investigator assigned to the
3 New York State Intelligence Center.

4 Q. And how long have you served in that capacity?

5 A. I've been there since November 2014.

6 Q. And in what capacity did you serve before?

7 A. I was a road trooper since I started, September
8 2005.

9 Q. And that's when you first started working for the
10 State Troopers?

11 A. Correct.

12 Q. And what did you do before that?

13 A. I was a physical education teacher.

14 Q. All right. Can you tell us the first time -- can
15 you tell us about the first time you became aware
16 of John Gorman?

17 A. I became aware of John Gorman on February 16,
18 2013, where he entered into the State Police
19 station in Brunswick to report an aggravated
20 harassment complaint to me.

21 MR. MARTIN: So you're referring to your
22 documents you have open?

23 THE WITNESS: Yes, I am.

24 MR. SORSBY: Mr. Martin, is that an

1 objection, or are you just asking her to clarify?

2 MR. MARTIN: Normally in a civil case, you
3 don't -- you're not suppose to refer to your
4 documents. I know you do this in a criminal --

5 MR. SORSBY: Mr. Martin, we'll introduce
6 that as an exhibit and she can refer to it at that
7 point.

8 MR. MARTIN: You really should have no
9 documents before you and testify from memory.

10 Q. So you were just indicating that the first time
11 you met Mr. Martin [sic] was --

12 MR. SORSBY: Can you read back -- can you
13 read back the transcript, her answer to the first
14 time she met Mr. Martin [sic], please?

15 (Whereupon, the requested portion of the
16 transcript was read by Reporter.)

17 Q. Do you have an independent memory of that event?

18 A. Sort of, yeah. I mean, I handle a lot of
19 criminal cases, so it's --

20 Q. Is there a document that would help you -- would
21 refresh your recollection as to that?

22 A. It would be my incident report that I completed
23 that evening.

24 Q. Let's go ahead and get that introduced. Bear

1 with me while I remove the staples.

2 A. Sure.

3 MR. SORSBY: I'll have this marked as --
4 Exhibit 36 was the last one, so this will be
5 Exhibit 37. Let's go off the record.

6 (Exhibits 37 through 39, inclusive, marked
7 for identification.)

8 MR. SORSBY: Back on the record.

9 Q. Investigator Hock, I'm going to hand you what's
10 been marked as Exhibit 37.

11 A. Mm-hmm.

12 Q. Do you recognize what's been marked as
13 Exhibit 37?

14 A. Yes, I do.

15 Q. Okay. Now, ma'am, do you see that there -- in
16 looking at Exhibit 37, there appears to an
17 incident report?

18 A. Mm-hmm.

19 Q. And then an arrest report that follows that; is
20 that true?

21 A. Correct.

22 Q. And can you tell us -- you indicate you recognize
23 these. How do you recognize these documents?

24 A. Because I prepared them, and they're documents

1 that I completed.

2 Q. Can you do me a favor and just read the incident
3 report to yourself so we can talk about that?

4 A. Mm-hmm. (Witness complied.) Okay.

5 Q. All right. Having reviewed the incident report
6 in this matter, that you indicated you produced,
7 do you have -- do you now have a recollection of
8 the time that Mr. Gorman went in and filed the
9 incident report -- filed the complaint at your
10 office?

11 A. Yes, I do.

12 Q. So you indicated earlier, the first time you --
13 can you tell us again the first time you met
14 Mr. Gorman?

15 A. It was February 16, 2013.

16 Q. And what happened -- what happened at that time?

17 A. I brought Mr. Gorman in, and we had a
18 conversation about what had occurred to him, and
19 a conversation that had taken place between him
20 and Anthony Patricelli over the phone. I took a
21 deposition from him, which he signed, stating the
22 facts of what occurred.

23 And at that point he didn't want to pursue
24 any criminal charges, and I told him what I could

1 do for him at that time is I could contact
2 Mr. Patricelli and have him cease any more
3 contact with him. And that's what he wanted to
4 do at that point.

5 Q. Now -- and do you believe that that's reflected
6 in the -- in your -- in what's been marked as
7 Exhibit 37, that incident report?

8 MR. MARTIN: Object to the form.

9 A. Yes, it is.

10 Q. I just want to tell you, as we go, there may be
11 objections to the form of the question. You can
12 still answer the question, okay?

13 A. Okay.

14 Q. I'm going to show you what's been marked
15 Exhibit 38. Take a chance -- take a few seconds
16 to look at that.

17 A. Okay.

18 Q. Do you recognize what's been marked as
19 Exhibit 38?

20 A. I do.

21 Q. And how do you recognize it?

22 A. It's a supporting deposition that I took from
23 John Gorman.

24 Q. Okay. And is that the supporting -- the

1 deposition you were referring to earlier?

2 A. Yes, it was.

3 Q. Okay. I'll take that back.

4 A. Mm-hmm.

5 Q. Now, is this the type of document that, in your
6 capacity as a state trooper, you would normally
7 keep in the course of ordinary business?

8 A. Yes.

9 Q. I'm going to also show you what's been marked as
10 Exhibit 39.

11 A. Mm-hmm.

12 Q. Do you recognize this document?

13 A. I do.

14 Q. And can you tell us how you recognize this
15 document?

16 A. I prepared it with John Gorman.

17 Q. And it mentions a supporting deposition. Is that
18 what's -- the supporting deposition, is that
19 Exhibit 38 that you just looked at?

20 A. Yes, it is.

21 Q. I'll take that back from you.

22 A. Mm-hmm.

23 Q. And again, Exhibit 39, is this a document you
24 would normally keep in the ordinary course of

1 business?

2 A. Yes, I would.

3 Q. And can you explain -- it indicates on,
4 Exhibit 39, aggravated harassment in the -- it
5 appears to be in the third degree. Can you tell
6 us why you believe what Mr. Gorman alleged would
7 meet the requirements for that charge?

8 A. Just based on the conversation that Mr. Gorman
9 and I had, I wasn't one hundred percent sure that
10 it would fit the section. That's why I notified
11 the Court and submitted a criminal summons for
12 the charge.

13 Q. Okay. Can you tell us if a copy of that criminal
14 summons was provided in response to the subpoena
15 in this matter?

16 A. No, I don't have a copy of that.

17 Q. You don't have a copy of that?

18 A. Not of the summons, no.

19 Q. I'm going to hand you back Exhibit 37.

20 A. Mm-hmm.

21 Q. And if you will, if you could just open the first
22 page?

23 A. Yes.

24 Q. Now, see at the bottom there's a narrative?

1 A. Mm-hmm.

2 Q. Can you tell us, in these incident reports, what
3 is the purpose of the narrative?

4 A. Just to document what occurred in chronological
5 order.

6 Q. And are these incident reports something that you
7 -- a document you have on you and you fill out
8 contemporaneously when you have discussions with
9 individuals?

10 A. I don't know what "contemporaneously" means.

11 Q. Do you fill it out while you're speaking with
12 them, or do you have notes that you take this
13 from?

14 A. Typically I would fill out some of the
15 information, the pedigree information of the
16 person I'm speaking with as I'm speaking with
17 them, but a lot of the -- I would take notes,
18 either on the computer. And I don't recall if --
19 in this instance if I was actually typing when I
20 was speaking with Mr. Gorman, the narrative, but
21 it would be shortly after our conversation.
22 After he would have left the station, I would
23 make my narrative.

24 Q. And can you tell us why it might -- why it would

1 be important to record these notes as soon as you
2 have a conversation with the deponent?

3 A. Just so I make sure I have everything in there
4 that we discussed.

5 Q. Is it important to record those notes as soon as
6 possible after the investigation, or the
7 discussion, I should say?

8 A. Yes.

9 Q. And is that a policy with your division of the
10 State Troopers to record notes as soon as
11 possible after having a conversation with an
12 interviewee, as it were?

13 A. I wouldn't say necessarily a policy. I'd say
14 it's a good idea.

15 Q. Now, is this a document that's on a -- again, is
16 it on a computer that you fill out? Generally
17 speaking, do you have a laptop that you fill this
18 out with or is it like a paper document you can
19 carry?

20 A. No. It's a desktop computer. It's a computer
21 program.

22 Q. Now, in this case, the discussion with
23 Mr. Gorman, did you take notes and then did you
24 take -- did you transfer them to this form, do

1 you know?

2 A. I don't recall.

3 Q. All right. Do you have -- do you know if you
4 have any notes regarding this incident report?

5 A. I didn't have any in my case folder.

6 Q. All right. Let's go and turn to the next page,
7 if you will?

8 A. Mm-hmm.

9 Q. Now, I just want to -- for clarification --
10 actually, let's turn back one page. Do you see
11 where it says, "Walk-in at SP-Brunswick"?

12 A. Yes.

13 Q. All right. And so that's -- that's a -- you're
14 recording a conversation. Can you tell us who
15 that part -- who this conversation is with?

16 A. Mr. Gorman.

17 Q. And that -- the conversation proceeds to the end
18 of this page?

19 A. Yes.

20 Q. And if you turn the page over, can you go ahead
21 and read for us that paragraph?

22 A. It says, "If I had a big enough problem with you,
23 I would come over there and break your jaw.
24 Gorman is fearful for the safety of himself and

1 his family, but at this time does not wish to
2 pursue criminal charges for aggravated
3 harassment. Deposition obtained from Gorman."

4 Q. All right. Now, that's a conversation you had
5 with Mr. Gorman that you recorded?

6 A. Correct.

7 Q. Can you do me a favor and read the next
8 paragraph?

9 A. Sure. "I contacted Patricelli via his cellphone,
10 and he advised me he did have a conversation with
11 Gorman last night. He told him that if he had a
12 big enough problem with him, he could come over
13 and break his fucking jaw. I advised Patricelli
14 to cease any further contact with Gorman. He
15 agreed with same."

16 Q. Now, this conversation that you wrote down and
17 memorialized, who is that conversation with?

18 A. The second paragraph?

19 Q. Correct.

20 A. With Anthony Patricelli.

21 Q. And the second paragraph, it says, "He told him
22 that if he had a big enough problem with him, he
23 would come over and break his fucking jaw." Are
24 you quoting -- are you quoting him? When you

1 wrote this down, would this be a quote of what he
2 said?

3 A. Yes.

4 Q. All right. At that time, did you believe that
5 you had enough to file a misdemeanor aggravation
6 charge?

7 A. No.

8 Q. Did you believe that you had enough to file any
9 charge?

10 A. At that point, I wasn't exactly sure, no.

11 Q. Okay. Did you understand that what Patricelli
12 told you to be a threat against Mr. Gorman?

13 A. Yes.

14 Q. Okay. And can you tell us why that threat -- why
15 you didn't believe at that time that that threat
16 didn't rise to that level of a charge?

17 A. Over the course of a few years, the section of
18 aggravated harassment had been discussed within
19 whatever court system, and the section was being
20 changed. There were certain factors within that
21 law that -- I'm not a lawyer. I'm just a police
22 officer.

23 Q. I'm just asking for your understanding.

24 A. There were certain sections in there where we had

1 notification within the State Police to not
2 pursue an aggravated harassment charge unless
3 something specific occurred, and I can't recall
4 what that was, but at the time I didn't -- I
5 wasn't exactly positive if the court would
6 proceed with the charge. That's why I submitted
7 a criminal summons.

8 Q. Okay. And you said you conferred with a
9 supervisor as to whether or not there was a basis
10 to proceed with a charge?

11 A. I had -- I didn't contact Sergeant Bacso on the
12 basis of that. I contacted her just to let her
13 know that both the parties involved were
14 corrections officers, and that is policy with the
15 State Police.

16 Q. What is policy?

17 A. To notify a supervisor if any parties were law
18 enforcement or corrections.

19 Q. We may come back to this. Can you turn to the
20 next page, please? Can you tell us, do you
21 recognize this document?

22 A. Yes, I do.

23 Q. And how do you recognize this document?

24 A. It's an arrest report of Anthony Patricelli that

1 I prepared.

2 Q. All right. Actually, can I have that back? We
3 just got that and I didn't have a chance to make
4 copies, so I don't actually have a copy of it.

5 A. Mm-hmm.

6 Q. So there came a time when you arrested
7 Mr. Patricelli?

8 A. Yes, I did.

9 Q. And what was the nature of that arrest?

10 A. It was a non-custodial issuance of a criminal
11 summons.

12 Q. What were the charges?

13 A. Aggravated harassment.

14 Q. And this was the arrest relevant to Mr. Gorman's
15 case?

16 A. Yes, it was.

17 Q. And was Mr. Patricelli arrested?

18 A. Yes, he was.

19 Q. And where was he detained?

20 A. He wasn't necessarily detained, but I arrested
21 him at his residence.

22 Q. And then what did you do?

23 A. Issued him the criminal summons, and got his
24 pedigree information and left.

1 Q. All right. Now, I'll give this back to you.
2 It's actually on the incident report. You'll see
3 that it says "associated persons". Do you see
4 that in the middle of the document?

5 A. Yes.

6 Q. Okay. Do you see that there's a Ruth Vibert
7 there?

8 A. Yes, I do.

9 Q. So what -- in the incident report, what does the
10 associated person's component mean?

11 A. Basically it's any person that is associated with
12 the case that should be documented in the report.

13 Q. Can you tell us why Ruth Vibert was an associated
14 person?

15 A. Ruth was, at the time, the chief of corrections,
16 and it's also policy to notify corrections or,
17 you know, a supervisor of law enforcement of the
18 incident that occurred.

19 Q. And did you have a conversation with Chief
20 Vibert?

21 A. I did.

22 Q. One, two? How many conversations did you have
23 with her?

24 A. I had one on the -- can I refer back to the

1 date?

2 Q. Well, we've introduced it as an exhibit. Yes.

3 A. I contacted her on the evening of February 16th.

4 Q. Okay. And where did you reach her at?

5 A. On her cellphone.

6 Q. And how did you get that cellphone number?

7 A. I think we had it in our system from previous
8 contacts with her.

9 Q. All right. And can you tell us about the
10 conversation?

11 A. I just advised her of the complaint that
12 Mr. Gorman had made against Anthony Patricelli.

13 Q. And what did she say?

14 A. That she was going to handle it on her end.

15 Q. All right. So that's one conversation. Did you
16 have any other conversations with her?

17 A. I used to see her every once in a while.

18 Q. Did you have another conversation regarding this
19 matter? Was there a followup?

20 A. I don't recall.

21 Q. Did you ever talk to the Rensselaer County
22 District Attorney regarding this matter, or
23 anybody in the Rensselaer County District
24 Attorney's office?

1 A. No, I don't recall that I did.

2 Q. Do you know what became of the charges against
3 Mr. Patricelli, that were filed against him, at
4 least with you?

5 A. I do not.

6 Q. Now, just for the uninformed. When a State
7 Trooper files a criminal complaint, is it the
8 district attorney that prosecutes those?

9 A. I'm assuming, or an ADA.

10 Q. All right. I just wanted to be clear on that.
11 Do you know who a Thomas Hendry is?

12 A. No, not off the top of my head.

13 MR. SORSBY: I'm going to have this marked
14 as an exhibit, which would be, at this point, 39.

15 MR. MARTIN: 40.

16 MR. SORSBY: I was looking at 39, so this
17 would be 40. Off the record a minute.

18 (Discussion off the record.)

19 (Exhibit 40 marked for identification.)

20 MR. SORSBY: Back on the record.

21 Q. I'm going to show you what's been marked as
22 Exhibit 40, okay?

23 A. Mm-hmm.

24 Q. Can you just read the top sentence for us?

1 A. "Trooper Hock, 7/15, 12:30."

2 Q. You can continue to read it.

3 A. "No written statement made by" -- I don't know
4 what that says.

5 Q. Do your best.

6 A. Jeez. "No written statement made by AP. She is
7 reluctant to provide any notes because the case
8 is outstanding. Didn't want to be involved in
9 this case." Oh, okay. I know who he is. Is it
10 Patricelli's attorney, I'm assuming?

11 Q. Well, let's -- having read Exhibit 40, do you
12 recall -- I'll tell you. Thomas Hendry is the
13 human resources director for Rensselaer County.

14 A. Okay.

15 Q. You spoke to Ruth Vibert. Do you have a
16 recollection of speaking to somebody else from
17 the county regarding this matter?

18 A. I don't recall honestly, no.

19 Q. Do you see on Exhibit 40, it says, "Troop G"?

20 A. Mm-hmm.

21 Q. Is that the number to Troop G?

22 A. That's to the front desk over at Latham.

23 Q. And you're an investigator now, but when you were
24 employed as a rural patrol person, were you at

1 Troop G?

2 A. Oh, actually this is the number to -- 786-3211,
3 that's NYSIC. What?

4 Q. Do you recognize any of these phone numbers?

5 A. I do.

6 Q. And how do you recognize these phone numbers?

7 A. One is my cellphone, one is -- I believe that's
8 communications, that 477-9333 over at Latham.

9 Q. And is -- your cellphone, how is that given out,
10 can you tell us?

11 A. I don't know who gave my cellphone number out.

12 Q. That's not something somebody could typically --

13 A. No. It's a private cellphone number.

14 Q. All right. Okay. But having read that, and
15 telling you who Thomas Hendry is, at this moment
16 you don't have a recollection of having a
17 conversation with him?

18 A. No, I don't.

19 Q. And other than Ruth Vibert and Mr. Patricelli and
20 Mr. Gorman himself, do you have a recollection of
21 having a conversation about this matter with any
22 other person?

23 A. There was another trooper that was -- that had
24 given me a phone call actually.

1 Q. And what was that trooper's name?

2 A. Janelle Waite (phonetic).

3 Q. And who is Janelle Waite, do you recall?

4 A. I believe at the time of this incident, she was
5 dating Anthony Patricelli or somehow involved.

6 Q. What did she -- she called you?

7 A. She did call me.

8 Q. Okay. And she called you on your cellphone?

9 A. Yes.

10 Q. Okay. And what did she say to you?

11 A. She was inquiring about the complaint that
12 Mr. Gorman had made against Patricelli, and how
13 we could -- it was the night that I tried to make
14 contact with Patricelli to serve the criminal
15 summons on him. And it was -- she just wanted to
16 know information on what the complaint was, and I
17 just let her know I was trying to get ahold of
18 Patricelli to serve the criminal summons.

19 Q. Now, at that time, did you know that
20 Trooper Waite was in a relationship with the
21 accused?

22 A. I wasn't exactly sure, but I came to the
23 conclusion.

24 Q. Based on what?

1 A. Based on Facebook pictures and posts, whatnot,
2 stuff like that, talk amongst people.

3 Q. Okay. So part of your recollection is based on
4 Facebook posts before this conversation you're
5 referring to?

6 A. Yeah. Yeah.

7 Q. All right. Now, there are certain policies that
8 State Troopers have, correct, in terms of
9 guidelines and in terms of communication
10 regarding ongoing cases; is that true?

11 A. Is there a policy?

12 Q. Yes.

13 A. I'm assuming. I mean, yes, there is.

14 Q. Did you -- now, you stated that you had the
15 understanding that she was in a relationship with
16 the accused. Did you think it was improper for
17 her to inquire about the case because she had a
18 relationship with the accused?

19 A. Yes. I was actually very upset about it.

20 Q. And did you tell her that?

21 A. I did not.

22 Q. What did you do about that?

23 A. I didn't do anything about it. I was just -- I
24 was inside upset, the fact that she had the nerve

1 to contact me on my personal cellphone in regards
2 to an issue that -- if she wanted to know what
3 the situation was, she had access to the State
4 Police records. She could have looked this
5 information up herself instead of contacting me
6 direct.

7 Q. And did you go to -- did you talk to any of your
8 superiors about this?

9 A. I don't believe so.

10 Q. Did you talk to anybody about that incident?

11 A. My spouse I did.

12 Q. Other than that?

13 A. No.

14 Q. Now, was that the only time Ms. Waite talked to
15 you about this matter?

16 A. Yes.

17 Q. So other than Ms. Waite and Mr. Patricelli and
18 Mr. Gorman, was there anybody else you spoke to
19 about this incident?

20 A. I think just other troopers at my station, but
21 that's common to discuss cases.

22 Q. All right. And did you have any conversations
23 with Sheriff Mahar about this incident?

24 A. I don't believe so.

1 Q. Just to be clear, I'm talking about then or any
2 time subsequent to that?

3 A. I don't recall.

4 Q. And did you have any conversations with
5 Undersheriff Russo --

6 A. No.

7 Q. Let me finish the question. Any conversations
8 with Undersheriff Russo regarding this incident,
9 then or subsequent to that?

10 A. No.

11 Q. Do you -- now, can you just -- Trooper Waite,
12 she is -- she was stationed at your barracks?

13 A. At the time, I don't believe she was.

14 Q. Okay. All right. Do you have a recollection of
15 where she might have been?

16 A. I believe she was at the academy. She was
17 temporarily at the academy as an academy training
18 officer, but I think her permanent station was in
19 Columbia County.

20 Q. And do you have -- do you know if Ms. Waite
21 tried to get the charges dropped -- the complaint
22 dropped against Mr. Patricelli?

23 A. I have no idea.

24 Q. Now, if you take a look at this exhibit here?

1 Again, this is Exhibit 37.

2 A. Mm-hmm.

3 Q. You've had a chance to look through the whole
4 thing, correct?

5 A. Yes.

6 Q. This is what was produced by your counsel's
7 office in regards to the federal subpoena. And
8 having read -- you had a chance to read the
9 subpoena yourself? Did they give you the
10 subpoena?

11 A. Yes.

12 Q. Okay. And the subpoena says, "All documents,
13 stored media including e-mails, voice recordings,
14 notes or conversation logs relating or pertaining
15 to any conversation with Mr. Patricelli or any
16 individual regarding John Gorman." You read
17 that, and this is all the documents that you
18 have?

19 A. In this exhibit?

20 Q. Correct.

21 A. No. I faxed over the supporting deposition, as
22 well as the criminal complaint, as well as the
23 Order of Protection that was issued by the
24 Schaghticoke court. I faxed all that information

1 over to my counsel yesterday.

2 Q. That was the supporting deposition, which we've
3 already looked at, the criminal complaint, and
4 the Order of Protection, correct?

5 A. Correct. Actually, I scanned it and e-mailed it.
6 I didn't fax.

7 Q. I'll have to call Mr. Maley and see what the
8 situation is with that.

9 Since you brought it up, I'll just -- we
10 will go ahead and introduce that, the Order of
11 Protection.

12 So while we're pulling that up, other than
13 what we just described and the documents you
14 described in addition to what's in Exhibit 37,
15 were there any other documents?

16 A. No. Two fax cover sheets. Those are the other
17 documents, but I don't know if those pertain.

18 Q. That goes into details. Fax cover sheets to who?

19 A. I submitted the paperwork to the Rensselaer
20 County DA's office. One was the cover sheet I
21 filled out, and the other was the response that
22 the transmission went through.

23 Q. So two sheets. Okay.

24 A. Correct.

1 Q. I'll reach back out, because we may indeed want
2 those.

3 A. Mm-hmm.

4 MR. SORSBY: We will have this marked as
5 Exhibit 41, Order of Protection.

6 (Exhibit 41 marked for identification.)

7 Q. I'm going to hand you what's been marked
8 Exhibit 41.

9 A. Mm-hmm.

10 Q. Do you recognize this document?

11 A. Yes, I do.

12 Q. And how do you recognize this document?

13 A. I received this -- a copy of this from
14 Judge Arnold of the Schaghticoke court.

15 Q. And what was this in response to? Why did you
16 receive this document?

17 A. It's typical for the courts to give the arresting
18 officer, the investigating officer, a copy of the
19 Order of Protection in a case in which they
20 filed.

21 Q. Okay. Who is "they"?

22 A. The courts. The Judge.

23 Q. When you say "they filed", filed what, the Order
24 of Protection?

1 A. What do you mean "they"?

2 Q. You said that they filed?

3 A. That the court completed -- that the Judge
4 completed the document.

5 Q. All right. So just so I understand the procedure
6 here -- and again, I'm not really a criminal law
7 attorney. You -- there was an arrest report,
8 but Mr. Patricelli wasn't arrested, he was issued
9 an appearance ticket to appear at a later date?

10 A. It's considered an arrest, a non-custodial
11 arrest, but he was issued a criminal summons, an
12 appearance ticket.

13 Q. For a future date?

14 A. For the charge, correct.

15 Q. And you're saying that -- well, is it the policy
16 of the court to then issue what would be a
17 temporary Order of Protection?

18 A. Depending on the case, if the Judge feels that
19 there's enough of a threat that an Order of
20 Protection needs to be issued, then they will
21 issue. If they don't believe it, then they don't
22 issue.

23 Q. And you understand that that's what Judge Arnold
24 issued in this case?

1 A. Yes, I do.

2 Q. All right. Let me just see that back real quick.
3 I want to make sure I'm looking at the right
4 document.

5 MR. SORSBY: I'm going to just go off the
6 record for one second.

7 (Discussion off the record.)

8 MR. SORSBY: We're back on.

9 Q. And did you mail a copy of this Order of
10 Protection to Mr. Gorman?

11 A. Yes.

12 Q. So the steps were, you received this from the
13 court and then you just mail it?

14 A. Or issue it, hand it to them in person.

15 Q. All right.

16 MR. SORSBY: I'm going to take a
17 thirty-second break and I think we're going to
18 wrap this up.

19 (Whereupon, a brief recess was taken.)

20 MR. SORSBY: Back on the record.

21 Q. Investigator Hock, the last time we were on the
22 record, we were talking about the Order of
23 Protection. Having sent the Order of Protection
24 to Mr. Gorman, did you contact the county with

1 the Order of Protection?

2 A. I don't recall.

3 Q. Do you recall sending this to the county, as
4 well?

5 A. I don't. I don't recall it.

6 Q. All right. Did you subsequently speak to
7 Mr. Patricelli regarding the Order of Protection?

8 A. No.

9 Q. Did you send a copy to Mr. Patricelli?

10 A. No.

11 Q. Other than Mr. Gorman, who did you send the Order
12 of Protection to?

13 A. I don't believe anybody.

14 Q. Okay. Let me take this back from you real quick.

15 A. Mm-hmm.

16 Q. Now, Trooper Hock, the incident report you filed
17 in this matter, which is the first page --
18 second page of Exhibit 37, you submitted -- I
19 think you indicated you submitted this to the
20 court, is that correct, the incident report?

21 A. I don't believe I submitted that to the court,
22 no.

23 Q. All right. What, if any, information did you
24 submit to the court?

1 A. The supporting deposition, as well as the signed
2 criminal complaint and maybe a sticky note that
3 says "requesting criminal summons" on it.

4 Q. And so it was based on those documents that the
5 arrest, the warrant for arrest, was issued?

6 A. The criminal summons, yes.

7 Q. And again, that was what we marked as Exhibit 39?

8 A. Correct.

9 Q. All right. And you submitted both of these
10 documents, 39 and 38, which is the supporting
11 deposition?

12 A. Yes, I did.

13 Q. And in order for the Judge to order an arrest
14 warrant, he made a determination that there was
15 probable cause?

16 A. Yes.

17 Q. Probable cause that the underlying charge was
18 committed?

19 A. Correct.

20 Q. And again, just for clarification, what was the
21 underlying charge again?

22 A. Aggravated harassment.

23 Q. All right. So although you were not sure that
24 there was sufficient facts to go forward, the

1 court in this matter felt that there was probable
2 cause?

3 A. Yes.

4 MR. SORSBY: You're all done today.

5 MR. MARTIN: I have a couple questions.

6 EXAMINATION

7 BY MR. MARTIN:

8 Q. In one of the exhibits, it indicates that you
9 called Mr. Patricelli on his cellphone. Do you
10 recall that?

11 A. Yes.

12 Q. And you were trying to serve the ticket on him,
13 correct?

14 A. Yes.

15 Q. How did you get his cellphone?

16 A. I don't initially recall how I got his cellphone.

17 Q. Did you know Mr. Patricelli prior to February 16,
18 2013?

19 A. No, I did not.

20 Q. You had never been out on any -- I forget what
21 the term is, but I think there was a task force
22 that sometimes the sheriffs and troopers worked
23 together on. You had never been out on any
24 calls --

1 A. No. I may have met him inside the jail, dropping
2 off a prisoner, but not that I would remember.

3 Q. Okay. And it was two-and-a-half years ago when
4 this incident occurred. As you sit here today,
5 is there anything, other than what's written in
6 your reports, that you can recall about your
7 conversations that you haven't already talked
8 about to Mr. Sorsby today?

9 A. No.

10 Q. You don't have any other independent
11 recollections other than what you've talked about
12 today?

13 A. Correct.

14 MR. MARTIN: Thank you.

15 MR. SORSBY: Thank you. We really
16 appreciate you coming today.

17 (Whereupon, the Examination concluded at
18 10:05 a.m.)
19
20
21
22
23
24

1 STATE OF NEW YORK

2 COUNTY OF _____
3

4 I have read the foregoing record of my testimony
5 taken at the time and place noted in the heading hereof
6 and I do hereby acknowledge it to be a true and correct
7 transcript of the same.
8
9

10 _____
11 INVESTIGATOR ERIKA HOCK
12
13

14 Sworn to before me this
15 _____ day of _____, 2015.
16
17

18 _____
19 Notary Public
20
21
22
23
24

C E R T I F I C A T I O N

I, NORA B. LAMICA, a Shorthand Reporter and
Notary Public within and for the State of New York, do
hereby CERTIFY that prior to being examined, the witness
named in the foregoing deposition was duly sworn to
testify the truth, the whole truth, and nothing but the
truth.

That said deposition was taken down by me in
shorthand at the time and place therein named and
thereafter reduced by me to typewritten form and that the
same is true, correct, and complete of said proceedings.

Before completion of the deposition, review of the
transcript was requested. If requested, any changes made
by the deponent (and provided to the reporter) during the
period allowed are appended hereto.

I further certify that I am not interested in the
outcome of this matter.

Witness my hand this 18th day of November, 2015.

NORA B. LAMICA